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U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA EUGENIA PINTOR ANGEL,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72594

Agency No. A95-309-992

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

February 13, 2006**

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges

María Eugenia Pintor Angel, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' summary affirmance of an immigration judge's denial of her application for cancellation of removal for

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

failure to establish ten years of continuous physical presence in the United States, as required by 8 U.S.C. § 1229b(b)(1)(A). She contends that her return to Mexico in 1996 did not interrupt her presence in the United States because it was not an administrative voluntary departure under threat of deportation. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand for further proceedings.

Pintor Angel testified that in June 1996 immigration officials found her at her workplace, detained her, photographed her, and took her to Tijuana in a bus. She testified that the officials did not fingerprint her and did not give her any papers to sign. She also testified that the officials told her “[t]hat [she] signed for voluntary departure.” The immigration judge took “judicial notice that one who is apprehended at a work site and goes to Mexico on one of the INS buses, certainly would have received from INS some documents to show that she had left the United States under this voluntary departure grant.”

We recently held that the fact that an alien is turned around at the border, even when the alien is fingerprinted and information about his attempted entry is entered into the government’s computer database, does not in and of itself interrupt the continuity of his physical presence in the United States. *See Tapia v. Gonzales*, 430 F.3d 997, 1002-04 (9th Cir. 2005). However, we previously held

that an administrative voluntary departure in lieu of removal proceedings does constitute a break in continuous physical presence. *See Vasquez-Lopez v. Ashcroft*, 343 F.3d 961 (9th Cir. 2003) (per curiam).

On the record before us, we cannot determine whether Pintor Angel's return to Mexico by immigration officials was the result of a "turn-around," as discussed in *Tapia*, or an administrative voluntary departure, as discussed in *Vasquez-Lopez*. We therefore grant the petition and remand to the Board for further proceedings concerning Pintor Angel's contact with immigration officials in 1996.

PETITION FOR REVIEW GRANTED; REMANDED